



Robert K. Scheinbaum, Esq.  
CONNELL FOLEY LLP  
56 Livingston Avenue  
Roseland, New Jersey 07068  
Tel: 973-535-0500

Email: [rscheinbaum@connellfoley.com](mailto:rscheinbaum@connellfoley.com)

Attorneys for Creditor, New Jersey Manufacturers Insurance Company

Order Filed on July 15, 2019 by  
Clerk U.S. Bankruptcy Court  
District of New Jersey

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

In Re

NEW ENGLAND MOTOR FREIGHT,  
INC., *et al.*,

Debtors,

Chapter 11

Case No. 19-12809 (JKS)

Jointly Administered

NEW ENGLAND MOTOR FREIGHT,  
INC. *et al.*,

Plaintiffs,

v.

PARTIES LISTED ON EXHIBIT A TO  
THE COMPLAINT and VARIOUS JOHN  
DOES

Adv. Pro. No. 19-1119 (JKS)

**STIPULATION AND CONSENT ORDER  
REGARDING MOTION FOR RELIEF FROM STAY**

The relief set forth on the following pages, numbered two (2) through (5), is hereby

**ORDERED.**

**DATED: July 15, 2019**

-1

2731879.1 115719-100281

  
Honorable John K. Sherwood  
United States Bankruptcy Court

Page: 2  
Debtor: NEW ENGLAND MOTOR FREIGHT, INC., et al.  
Case No.: 19-12809 (JKS) (Jointly Administered)  
Adv. Pro.: NEW ENGLAND MOTOR FREIGHT, INC. et al. v. PARTIES LISTED ON  
EXHIBIT A TO THE COMPLAINT, et al.  
Adv. Pro. No.: 19-1119 (JKS)  
Caption of Order: Stipulation and Consent Order Granting Relief From Stay

---

**WHEREAS**, on August 15, 2015, while operating her vehicle in Connecticut, Phyllis A. Troy was struck by a tractor-trailer operated by Rowan A. Phillip,; and

**WHEREAS**, at the time of the aforesaid motor vehicle accident (the “Connecticut MVA”), New England Motor Freight, Inc., a Debtor in the within jointly administered Chapter 11 proceedings, was the employer of Mr. Phillip and the registered owner of the tractor-trailer involved in the collision; and

**WHEREAS**, on August 11, 2017, New Jersey Manufacturers Insurance Company (“NJM”), as subrogee of the rights Phyllis A. Troy, filed an action in the Superior Court of Connecticut, Judicial District of New Haven, captioned *New Jersey Manufacturers Company as Subrogee of Phyllis A. Troy v. New England Motor Freight, Inc. and Rowan Phillip*, Docket No. NNH-CV17-6072920-S (the “Connecticut Litigation”); and

**WHEREAS**, on February 11, 2019, the Debtors in this jointly administered Chapter 11 case filed their bankruptcy petitions; and

**WHEREAS**, on March 14, 2019, the Debtors filed the complaint in the above-captioned Adversary Proceeding and a motion seeking a preliminary injunction against all pending motor vehicle accidents involving the Debtors [Docket No. 3 in Adv. Pro. 19-1119 (JKS)] (the “Injunction Motion”); and

Page: 3  
Debtor: NEW ENGLAND MOTOR FREIGHT, INC., et al.  
Case No.: 19-12809 (JKS) (Jointly Administered)  
Adv. Pro.: NEW ENGLAND MOTOR FREIGHT, INC. et al. v. PARTIES LISTED ON  
EXHIBIT A TO THE COMPLAINT, et al.  
Adv. Pro. No.: 19-1119 (JKS)  
Caption of Order: Stipulation and Consent Order Granting Relief From Stay

---

**WHEREAS**, on April 9, 2019, NJM filed papers in opposition to the Injunction Motion and filed a cross-motion for an Order granting relief from stay to proceed with personal injury litigation pending in Connecticut state court; and

**WHEREAS**, payments to other claimants involved in the Connecticut MVA have exhausted (i) the Debtors' self-insured retention obligation of \$500,000 under a Excess Indemnity Contract between the Debtors and Protective Insurance Company ("Protective") in effect at the time of the Connecticut MVA; (ii) coverage up to \$5 million per occurrence provided by Protective under the same Excess Indemnity Contract; (iii) and an additional layer of insurance coverage between \$5 million - \$10 million per occurrence provided by Lexington Insurance Company ("Lexington"); and

**WHEREAS**, in the Connecticut Litigation, NJM seeks recovery of personal injury protection ("PIP") benefits for medical care paid on behalf of its insured, Phyllis Troy, and for property damage to her vehicle; and

**WHEREAS**, in the Connecticut Litigation, NJM is not seeking recovery from the Debtors' self-insured retention or the Protective or Lexington policies of insurance covering the Debtors; and

**WHEREAS**, in the Connecticut Litigation, NJM is seeking to recover only from insurance policy(ies) issued by Travelers providing coverage to the Debtors for losses in excess of \$10 million per occurrence, and not directly from the Debtors; and

WHEREAS, accordingly, NJM hereby agrees to waive its right to any recovery from the Estates, and forever waives, releases and discharges the Debtors, the Debtors' estates, and each of their respective successors, agents and assigns of and from any and all manner of action and actions, cause and causes of action, suits, guarantees, debts, sums of money, accounts, reckonings, bonds, bills, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims, and demands whatsoever in law or in equity, now known or unknown, or hereafter becoming known, for, upon, or by reason of any matter, cause or thing related to the Connecticut Litigation and/or the Connecticut MVA, whether or not such claims are known or unknown to NJM, and whether or not such claims have been asserted by NJM, except with respect to the Allowed Proof of Claim, as defined herein.

**NOW THEREFORE**, the Parties stipulated and agree, and the Court hereby finds and **ORDERS** as follows:

1. The automatic stay is hereby terminated as set forth herein pursuant to Section 362(d) of the Bankruptcy Code as to NJM, Phyllis Troy and the Connecticut Litigation.
2. NJM shall be entitled to file a nominal proof of claim in the above-captioned jointly administered Chapter 11 proceedings in the amount of "To Be Determined" for the purposes of pursuing recovery in the Connecticut Litigation against applicable insurance policy(ies), which claim shall be deemed allowed in the amount of \$1.00 pursuant to 11 U.S.C. § 502, provided, however, that NJM shall not be entitled to receive any distribution from the Debtors' estates on account of such allowed claim (the "Allowed Proof of Claim").
3. The Bankruptcy Court will retain jurisdiction over all matters related to this Stipulation and Consent Order.

Page: 5  
Debtor: NEW ENGLAND MOTOR FREIGHT, INC., et al.  
Case No.: 19-12809 (JKS) (Jointly Administered)  
Adv. Pro.: NEW ENGLAND MOTOR FREIGHT, INC. et al. v. PARTIES LISTED ON  
EXHIBIT A TO THE COMPLAINT, et al.  
Adv. Pro. No.: 19-1119 (JKS)  
Caption of Order: Stipulation and Consent Order Granting Relief From Stay

---

**AGREED TO AND JOINTLY SUBMITTED BY:**

**GIBBONS P.C.**

Attorneys for Debtors  
and Debtors-in-Possession

By: 

Brett S. Theisen

**CONNELL FOLEY LLP**

Attorneys for  
New Jersey Manufacturers Insurance Company

By: 

Robert K. Scheinbaum